

THE INTERIM

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LEGISLATIVE PUBLICATIONS RECEIVE NATIONAL RECOGNITION

The National Conference of State Legislatures (NCSL) has recognized three publications prepared by legislative branch staff "as innovative in providing substantive information on contemporary issues of interest to legislatures." The winning documents were highlighted at the NCSL annual meeting in San Francisco in July. Montana publications receiving 2003 Notable Documents Awards were:

- ***A Legislator's Handbook 2003.*** The 12th edition of this handbook was substantially rewritten and updated by Mary Vandenbosch, resource policy analyst, Legislative Environmental Policy Office. The handbook for legislators covers a wide range of topics, including legislative branch services, legislative procedures, bills and resolutions, standing committees, floor sessions, and interim activities. Nadine Fox created an index for the document, and Carol Ann Jacobsen edited the publication. Maureen Theisen provided desktop publishing services.
- ***Understanding State Finances and the Budgeting Process.*** This manual, compiled by Taryn Purdy, principal fiscal analyst, Legislative Fiscal Division, assists legislators and others in understanding budget terms and concepts and their specific application in Montana. Topics include the basics of budgeting and revenue estimating, how the budget and appropriations process works, and other legislation with fiscal impact. Diane McDuffie provided desktop publishing services.
- ***Electricity Law Handbook: A Montanan's Guide to Understanding Electricity Law.*** Prepared by Todd Everts, legislative environmental analyst, the handbook is a product of the Environmental Quality Council's 2001-2002 Energy Policy Subcommittee. The handbook explains in a straightforward, easy to understand manner how electricity laws work in Montana and how those laws

affect Montana consumers. Carol Ann Jacobsen edited the publication, and Maureen Theisen provided desktop publishing services.

If you would like a copy of *A Legislator's Handbook 2003* or the *Electricity Law Handbook*, call the Legislative Services Division at (406) 444-3064. For a copy of *Understanding State Finances and the Budgeting Process*, call the Legislative Fiscal Division at (406) 444-2896.

REVENUE AND TRANSPORTATION COMMITTEE

Revenue and Transportation Committee Endorses Fort Belknap Fuel Tax Agreement...At the conclusion of a teleconference held on Aug. 20, the Revenue and Transportation Committee unanimously endorsed a gasoline tax agreement between the Fort Belknap Community Council and the state. The agreement is wending its way through a statutorily prescribed process, one step of which is review and comment by the committee (15-70-234, MCA). The agreement was negotiated in June and signed by Dave Galt, director of the Department of Transportation (MDT) and by Benjamin Speakthunder, president of the Fort Belknap Community Council (made up of the Gros Ventre and Assiniboiné tribes). MDT held a public hearing on the Fort Belknap Reservation at which no opposition was heard. The next and final portion of the process is review and approval by Attorney General Mike McGrath.

As stated in the agreement, its purpose is to "avoid legal controversy and possible litigation on the future of the taxation of gasoline within the exterior boundaries of the Fort Belknap Indian Reservation, to avoid dual taxation of gasoline by both the Tribes and the State, and, until otherwise provided [in an agreement], to establish that the same level of taxation is imposed on distribution of gasoline both within and outside the boundaries of the Reservation."

According to Bob Turner, chief of MDT's Fuel Tax Management and Analysis Bureau, the recently-negotiated agreement is substantively similar to the agreement between the Fort Belknap tribal government and the state that had been in effect from April 1993 to April 2003. Cooperative motor fuel tax agreements between the state and tribal governments generally remain in effect for 10 years and may be extended at the end of that period without the parties entering into formal renegotiations. This agreement, however, expired before an extension could be filed. Components of the agreement are:

- Tribal and state fuel taxes will be the same and consumers will pay the same rate whether buying fuel inside or outside reservation boundaries. A change in the state fuel tax rate would result in the same change to occur on the reservation.
- The state will collect the tax and remit it to the tribes no later than 60 days after the end of a calendar quarter.
- The amount collected and remitted is based on actual gallons of

gasoline sold on the reservation, not on the number of enrolled tribal members, as is the case in other state-tribal fuel tax agreements. The amount remitted to the tribes will be less 14% of the total collections on the reservation, which is allocated to local governments statewide based on such factors as road or street miles, population, and rural land area of the county.

- The tribes may, at their discretion, negotiate with local governments for a share of the revenue allocated to the local governments.
- The state has no authority to dictate the use of the money remitted to the tribes under this agreement.

Committee to Meet Oct. 2...The committee has rescheduled its Oct. 3 meeting to Oct. 2. The committee will meet at 9 a.m. in Room 137 of the state Capitol. The reason for the change is to allow committee members to attend a public forum on "State Revenue Generation: Thinking New Thoughts," sponsored by the Wheeler Center at MSU, Bozeman. The forum will present ideas on "how states can and should structure their revenue (and spending) policies." The forum begins with a keynote address at 7:30 p.m. on Oct. 2, with a full day scheduled for Oct. 3. Details about the forum can be found at <http://www.montana.edu/wheeler/> and following the links.

The final agenda for the Oct. 2 committee meeting has not been set, but items may include:

- Revenue collection report for FY 2003
- SJR 29 study plan for valuation of centrally assessed property (focusing on electrical generation property)
- Department of Revenue procedures for valuing centrally assessed property
- Demonstration of the Integrated Revenue Information System (DOR) for the new rental vehicle tax (SB 407)
- Update on SB 461 property tax mitigation and extended property tax relief
- Report on reauthorization of federal highway funds
- Update on motor fuel tax collections
- Highway safety
- Update on activities to determine compliance with special fuel laws

The Loop is Always Open...For more information about the Revenue and Transportation Committee, its work plan, or future agendas, please visit the website (<http://www.leg.mt.gov> and follow the "Committees" links), or contact Jeff Martin at (406) 444-3595 or via e-mail at jmartin@mt.gov or Leanne Kurtz at (406) 444-3064 or via e-mail at lekurtz@mt.gov.

ENERGY AND TELECOMMUNICATIONS COMMITTEE

Committee to Meet Sept. 16...The Energy and Telecommunications Committee will meet on Sept. 16 at 8 a.m. in Room 102 of the Capitol. The meeting promises to be electrifying, with presentations and discussion on the following topics:

- the financial status of NorthWestern Corporation, including potential impacts on Montanans;
- initiatives to protect ratepayers and public programs funded by ratepayers in light of NorthWestern's deteriorating financial condition;
- legal issues associated with a utility bankruptcy filing;
- options for providing default electricity service, which is currently the responsibility of NorthWestern Energy;
- options for mitigating potential impacts on Montanans resulting from high natural gas prices and NorthWestern Corporation's financial troubles; and
- current and projected rates for electricity and natural gas statewide.

The committee will also be briefed on the activities of the Governor's Energy Consumer Protection Task Force, which met for the first time on Aug. 27. A second meeting is tentatively scheduled for Sept. 12. Contact John Bushnell at (406) 444-3952 for more information about the governor's task force.

Want to Know More?....Agendas, memos, links, and a draft work plan can be found on the committee's website at http://leg.mt.gov/css/committees/interim/2003_2004/energy_telecom/default.asp. To get to the website without typing the full address, go to "<http://leg.mt.gov>", click on "Interims," then click on "2003-2004." The Energy and Telecommunications Committee is listed under "Statutory Interim Committees." Don't forget to bookmark the page! Contact Mary Vandembosch at (406) 444-5367 or mvandembosch@mt.gov for more information, to be added to the mailing list, or to recommend vocabulary additions that are unrelated to the volatile energy world.

ENVIRONMENTAL QUALITY COUNCIL

Council to Meet in October...The EQC will meet Wednesday and Thursday, Oct. 8 and 9 in Room 102 of the state Capitol. The Subcommittee on Agency Oversight and the Subcommittee on Alternative Energy are both scheduled to meet in the morning of Oct. 8 at 8 a.m. The full EQC will meet the same day at 1 p.m. Meeting agendas and

minutes, staff reports, draft proposals, and other information about the EQC are available at <http://www.leg.mt.gov/css/lepo>, by calling (406) 444-3742, or by emailing mtheisen@mt.gov.

EDUCATION AND LOCAL GOVERNMENT COMMITTEE

Committee Organizes for Interim...The Education and Local Government Committee held its first meeting of the interim on Aug. 21. Rep. Joan Andersen was elected chair and Sen. Don Ryan was elected vice chair. Because of the large amount of work to do, the committee decided to establish education and local government subcommittees that will meet in place of the full committee for the first few meetings.

Key Local Government Issues...Alec Hansen of the Montana League of Cities and Towns discussed issues of importance to local governments. Health insurance costs continue to be a problem. The league is looking at establishing some kind of statewide plan in conjunction with counties.

The league would like to see the state implement a Main Street program. This is a program of the National Trust for Historic Preservation that allows small towns to revitalize their downtown business centers by preserving old buildings and then provides business owners with marketing assistance. The league is looking at grant money to get the program up and running. Hansen would like to see the state provide some funding when economic conditions improve.

Energy continues to be a major issue. Earlier this summer, NorthWestern Energy reneged on a 5-year contract with local governments and school districts that would have kept energy costs affordable. Both Helena and Missoula have passed ordinances allowing for the creation of a public utility, and Great Falls is considering a similar ordinance. As energy costs rise, more cities and towns may consider this approach. Hanson said that energy markets are not conducive for these kind of organizations, but if NorthWestern goes bankrupt, public utilities or electric cooperatives may be more feasible.

The league has been helping cities and towns understand their emergency powers with regard to ordinances and purchasing as a result of the severe forest fires burning in Montana. The league is also interested in the subdivision and platting study in HJR 37.

Key Education Issues...Linda McCulloch, Superintendent of Public Instruction, discussed some of the provisions of the new federal education law, "No Child Left Behind" (NCLB), and their impact on Montana. Her office recently reported individual school test results from last year, as required by federal law, that identified which schools met their adequate yearly progress (AYP) goals. AYP is measured using the state's 4th, 8th, and 11th grade reading and math tests. Each school's enrollment is divided into 11 specific subgroups along lines of race, ethnicity, family income, limited English proficiency, and students with disabilities. To meet AYP, a certain academic score must be achieved in math and reading, a minimum of 95% of the students must take the tests,

elementary schools must achieve an attendance rate of 80%, and high schools must achieve a graduation rate of 80%. If any of the 11 subgroups fails to meet the standards for either math or reading or fails to meet the participation, attendance, or graduation rate, the whole school fails to meet the federal standard. In Montana, 179 schools have failed to meet AYP. Sen. Ryan asked for a report showing the schools that failed to meet AYP because they failed in one of the sub-categories but passed in the rest.

McCulloch also reported on the difficulties Montana will face in complying with the new federal provisions for teachers and paraprofessionals. Under NCLB, teachers will be required to have a major in every subject that they teach. This provision will prove a hardship for many small districts in Montana that only need one science or social studies teacher. Montana currently allows a person to teach a subject with an undergraduate minor in that field. Also, Montana has a broad field certification in social studies and science that allows a teacher with an undergraduate degree in biology, for example, and a certain level of course work in the other major sciences to teach any secondary science course in a school's curriculum.

Under NCLB, all paraprofessionals will have to have two years of college, a 2-year degree, or pass a state assessment. Many paraprofessionals are paid minimum wage and cannot afford to go back to college. In addition, many school districts are located far from a postsecondary institution, making the NCLB requirements even more difficult to meet.

Sen. Greg Barkus wanted some assurances that Montana was not trying to water down the NCLB requirements. He said that it was very important for the state to meet the requirements of the federal law as it was good for students. McCulloch responded that her office was working with the U.S. Department of Education to help them understand how these requirements impact rural states and how these impacts could be mitigated without compromising the intentions of NCLB.

Montana has received a \$2.9 million Reading First grant from the Department of Education that will help schools and districts improve children's reading achievement, which is another component of NCLB. The money will be awarded to 20 eligible districts through a competitive process.

Rep. Sue Dickinson asked if home schools and private schools were covered under NCLB. McCulloch said that private schools that received federal Title I funding were covered but home schools were not.

Dr. Kirk Miller, chair of the Board of Public Education, presented information on the work of the board in school accreditation and teacher licensure. In the area of school accreditation, the board has adopted a standards framework that:

- defines the general knowledge of what students should know and be able to do in each subject area;
- sets specific expectations for student learning at three benchmarks in a student's school career: at the end of the 4th and 8th grades and upon graduation; and

- sets performance standards that describe student achievement at each of these benchmarks: advanced, proficient, nearing proficiency, and novice.

Each school district sets its own curriculum within this framework. Because Montana has not adopted a state curriculum for all schools, many publications on education criticize the state for not having any educational standards at all, which is not true. Miller stated that the board's approach is more in keeping with Montana's strong history of local control of schools.

Miller also spoke briefly of the history of the K-12 Public School Renewal Commission and the board's involvement in the commission's work.

Committee Looks at HJR 37...The committee has one interim study to conduct. HJR 37 is a study of the Montana Subdivision and Platting Act. It requests a rewrite of the laws to make them clear, concise, and logically organized. Leanne Kurtz of the LSD will be the lead staff for the study. She will organize a presentation by all of the interested parties at the October meeting. At that time, a study plan will be adopted. Peggy Trenk of the Montana Realtors' Association told the committee that the association has a task force working on the issue and will work very closely with the committee on the study. Sen. Bill Glaser asked that the resolution's sponsors be kept informed of the study's progress. Sens. Rick Laible and Jeff Mangan believed that the study could become very broad and encompass other land use issues such as zoning and impact fees and that the committee will need to set priorities for study issues.

Committee Develops Work Plan...In the area of administrative rule review, the committee asked Eddy McClure to provide to committee members a brief synopsis of each rule she reviews. If an individual member wants more information on a rule or if McClure believes a proposed rule may be controversial or has important educational value, the rule may be put on a meeting agenda.

In the area of state agency monitoring, the committee decided that if issues arise about the performance of an agency, the agency will be requested to respond.

The committee will follow the progress of the K-12 Public School Renewal Commission of which Sen. Ryan is a member. The commission is required to report to the committee by Sept. 15, 2004.

Because of the interest the committee has shown in NCLB, staff will provide a series of issue briefs on the federal law to help members better understand it and its impacts on Montana.

The committee expressed an interest in establishing a Postsecondary Education Policy and Budget Subcommittee, similar to last interim.

Committee members identified the following issues for further research:

- governmental franchise law;
- home school accountability;
- protested taxes, specifically the protested taxes of PPL Montana; and
- health insurance for school districts.

The committee adopted the following meeting schedule:

- Thursday, Oct. 30, 2003
- Friday, Jan. 9, 2004
- Friday, April 2, 2004
- Wednesday, June 9, 2004
- Monday & Tuesday, Sept. 14 and 15, 2004

Stay Informed...For further information about the meeting or the committee in general, please contact Connie Erickson at (406) 444-3078 or by e-mail at cerickson@mt.gov. To be placed on the mailing list for future meetings, please contact Rebecca Sattler at (406) 444-0502 or by e-mail at rsattler@mt.gov.

Meeting agendas and minutes and staff reports are available on the committee's website. Log on to www.leg.mt.gov and follow the links.

LEGISLATIVE COUNCIL

Two-day Meeting Scheduled...The next meeting of the Legislative Council will be Sept. 22 and 23 in Helena. Activities during these two days include the following:

- On Monday, Sept. 22, the Legislative Council's SJR 32 Subcommittee on Medical Liability Insurance (liability insurance for health care facilities and providers) will meet at 9 a.m. in Room 102 of the Capitol.
- On Monday, Sept. 22, the Legislative Council's Management Advisory Subcommittee will meet at 1:30 p.m. in Room 137 of the Capitol to discuss a performance appraisal procedure for the executive director of the Legislative Services Division.
- On Monday, Sept. 22, the Legislative Council will convene at 6 p.m. for a business meeting. Tentative agenda items include consultation on a proposed property transfer, adoption of council rules of procedure, and an update on Television Montana (TVMT).
- On Tuesday, Sept. 23, the Legislative Council will convene for a planning session at 8 a.m. in the conference room of the Montana Association of Counties, 2715 Skyway Dr. in Helena. The council will identify and set priorities for issues to pursue during the interim.

For more information about the Legislative Council, call Lois Menzies at (406) 444-3066 or send an e-mail message to lomenzies@mt.gov.

SJR 32 Subcommittee on Medical Liability Insurance to Meet...The subcommittee, created by the Legislative Council to study medical liability insurance issues, will meet on Sept. 22 at 9 a.m. in Room 102 of the Capitol. Rep. George Golie

is the presiding officer. Other subcommittee members are: Sens. John Cobb, Brent Cromley, Duane Grimes, and Debbie Shea; and Reps. Roy Brown, Kathleen Galvin-Halcro, and Don Roberts.

The agenda for the subcommittee's first meeting includes various organizational and administrative items and will focus substantively on collecting factual information, data analyses, and the like from various health care facility and health care provider "stakeholders" in medical liability insurance. Stakeholders generally include: hospitals, clinics, nursing homes, physicians, dentists, nurses, the legal profession (both plaintiff and defense counsel), insurance producers, the state Insurance Commissioner, and others. In short, the subcommittee will begin to build the factual foundation on which findings and conclusions may be based and for the future identification and discussion of public policy options.

For further information, please check the subcommittee's website, or contact Dave Bohyer of the Legislative Services Division by phone at (406) 444-3064 or by e-mail at dbohyer@mt.gov.

STATE ADMINISTRATION AND VETERANS' AFFAIRS COMMITTEE

The State Administration and Veterans' Affairs Committee is scheduled to meet on Friday, Sept. 26 at the state Capitol in Helena. The details of the agenda are yet to be worked out, but in general, the committee will review its statutory duties and meet with representatives of the state agencies for which the committee has monitoring responsibilities. Those agencies include the Office of the Secretary of State, the Office of the Commissioner of Political Practices, the Department of Administration and its subdivisions, the Department of Military Affairs and its subdivisions, and the Board of Veterans' Affairs. Additional details of the September meeting, as soon as they are available, will be posted to the committee's website at http://www.leg.mt.gov/css/committees/interim/2003_2004/st_admin_vet_affairs/default.asp. You can also contact Dave Bohyer by phone at (406) 444-3064 or by e-mail at dbohyer@mt.gov.

LAW AND JUSTICE COMMITTEE

Committee Elects Officers and Reviews Duties... The Law and Justice Interim Committee held its first meeting on Aug. 5. Sen. Duane Grimes was elected presiding officer and Rep. John Parker was elected vice presiding officer.

Attorney General Mike McGrath, Chief Justice Karla Gray, and Department of Corrections Director Bill Slaughter each presented agency background briefings and legislative issue highlights.

The committee began its study of the juvenile justice system and juvenile probation, as requested by SJR 31. Staff provided a background report on the structure of Montana's juvenile justice system, and a panel discussed the role of juvenile probation officers. The committee requested additional information from the Supreme Court administrator and the Juvenile Probation Officers' Association assessing whether parental rights and grievance procedure issues brought to the committee and the problems encountered in the particular case of one youth and the youth's parents pointed to a systemic issue requiring legislation. This information is to be provided at the meeting tentatively scheduled for Jan. 8, 2004.

Members then engaged in discussion of other issues under the jurisdiction of the committee. The examination of whether and how to establish a state-wide public defender system for indigent defendants emerged as a fundamental study topic.

Following the discussion of SJR 31 in context with other emerging study issues and the scope of committee's other statutorily-required duties, the committee adopted a preliminary work plan allocating its resources as follows:

- 40% on state assumption of public defenders;
- 20% on the SJR 31 study of juvenile justice and juvenile probation;
- 20% on any emerging issues; and
- 20% on agency monitoring and liaison activities, including the required review of whether legislation proposed by assigned agencies should be drafted as agency bills for the 2005 session. (The committee is statutorily required to monitor the Department of Justice, the Department of Corrections, and to liaison with the judicial branch.)

Next Meeting in October... The committee will meet on Oct. 23 in Room 102 of the state Capitol. The meeting will focus on the state assumption of public defenders. The agenda and available meeting materials will be posted to the committee's website accessible through the legislative branch homepage at <http://www.leg.mt.gov>. For additional information, contact Sheri Heffelfinger at (406) 444-3596 or sheffelfinger@mt.gov.

LEGISLATIVE FINANCE COMMITTEE

Meeting Slated for Oct. 3... The Legislative Finance Committee will meet on Oct. 3. An agenda has not been prepared yet, but some of the expected reports will deal with fiscal year 2004 wildfire costs (see below), state revenues, and the budget approaches of Montana and other states. Check the Legislative Fiscal Division website in the couple of weeks preceding the meeting date at <http://www.leg.mt.gov/css/fiscal/lfc.asp> to view the agenda. For further information, contact Clayton Schenck at cschenck@mt.gov or at (406) 444-2986.

Wildfire Costs... There are many fires burning throughout Montana. Although there have been a significant number of new starts in the last few weeks, initial attack crews have put most of them out. However, those that have continued to burn are expensive.

As of Aug. 22, 2003, the total fiscal year 2004 fire costs were estimated to be \$35.6 million. An estimated \$7 million of these costs are reimbursable. Keep in mind that it is very early in the fire season and costs will change significantly as the fire season comes to a close.

Some of the fires are eligible for Federal Emergency Management Agency funds. So in addition to reimbursable costs, FEMA will pay a portion of fire costs. FEMA rules allow payment of 75 percent of actual eligible costs after a \$0.5 million "floor cost" has been met. Early estimates indicate that about \$18.5 million of the fire cost of \$28.6 million (\$35.6 million - \$7 million) is FEMA eligible.

To pay for the fire costs that have come due, the executive branch has used \$3.2 million of the Federal Jobs and Growth Tax Reconciliation Act money granted to the Montana and is processing documents to use another \$1.8 million. Although states of disaster and emergency have been declared, there have been no statutory appropriations established to pay for fire costs with the governor's emergency fund. That fund was increased from \$12.0 million to \$16.0 during the 2003 legislative session.

Over the last seven years, the average total fire suppression cost is about \$8.6 million. To arrive at that figure, fire costs over the last seven years are averaged after the high and low cost years are removed. Once included into the calculation, fiscal year 2004 fire costs will cause an increase in the average cost of suppression. The table below shows the current average cost of suppression.

Five Year Average Fire Suppression Cost		
High and Low Years Removed -- 1998 and 2001 *		
Fiscal Year	Total Cost	7-year
End	(Less Budgeted Costs)	Rank
1997	\$6,224,272	5
1999	8,303,438	3
2000	5,205,614	6
2002	16,417,193	2
2003	<u>6,710,688</u>	4
5 - YEAR AVERAGE		
FIRE COSTS	<u>\$8,572,241</u>	
* 1998 -- \$870,638 2001 -- \$54,925,104		

For further information, contact Gary Hamel at gahamel@mt.gov or by phone at (406) 444-5347.

ECONOMIC DEVELOPMENT COUNCIL

Council Meets in August... The Economic Development Advisory Council, established under HB 76 in the last session and serving in part as a replacement for the Microbusiness Advisory Council, met Aug. 8. The purpose of the meeting was to begin setting funding criteria for certified regional development corporations, also established under HB 76.

The council, which is administratively attached to the Department of Commerce, includes four legislators and 15 appointees made by the governor. The governor's chief business development officer is the presiding officer. The legislative members are: Sen. Don Ryan, Sen. Mike Sprague, Rep. John Sinrud, and Rep. Brennan Ryan. Other appointees are representatives of economic development organizations, the director of the Department of Commerce, the president of Flathead Valley Community College, a county commissioner, and university-affiliated representatives.

The council also discussed rules proposed by the Department of Commerce related to funding formulas for assistance grants and requirements for certified regional development corporations, including how many counties must be involved, staffing, and levels of community support. The proposed rules are available from the Department of Commerce.

TIME AND TIDE

<u>Event</u>	<u>Days remaining</u>
Special session	?
Target date for completion of interim committee work (September 15, 2004)	381
General election (November 2, 2004)	429
59th Legislature convenes (January 3, 2005)	491

THE BACK PAGE

BIODIESEL: A PARTIAL SOLUTION TO MONTANA'S ENERGY WOES?

By Todd Everts, Legislative Environmental Analyst
Legislative Environmental Policy Office

A POSITIVE VIEW FROM AN OTHERWISE DISMAL SITUATION

You have read the daily energy headlines recently. Electricity and natural gas rates for NorthWestern Energy customers have increased substantially. Montana-Dakota Utility customers are also paying higher natural gas rates. NorthWestern Energy is on the brink of bankruptcy. Congestion on Montana's transmission lines restricts the free flow of electricity into and out of the state. Electricity blackouts plague the East Coast. Gasoline and diesel prices remain extremely high and volatile.

Is there any glimmer of sunlight on Montana's energy horizon? Is there any relief in sight? Do we Montanans give up and cry "uncle!!"? I don't think so. When other people think of Montanans, they usually conjure up images of rugged self-reliance, fierce independence, individualism, stability, self-sufficiency, and resiliency. The policy answers to our current energy dilemma are extremely complex and confusing, but at least a small part of the solution to our energy problems may lie in looking at alternative, nontraditional energy resources that mirror our own general character as Montanans.

The characteristics of energy resources that best reflect the general Montana persona are resources that we can produce ourselves, that are cheap and easily accessible, that are compatible with existing infrastructure and are very reliable, that are healthy to use, that minimize our dependence and reliance on others to supply and transmit needed energy, that help protect us from volatile energy prices, that are self-sustaining and renewable, and that, as a side bonus, create value-added jobs for Montanans. The production and use of alternative fuels, such as biodiesel, hydrogen, ethanol, and biomass, and alternative energy sources, such as wind generation and small-scale hydro-generation and solar generation, in addition to Montana's traditional energy sources could be instrumental in potentially stabilizing some of Montana's energy problems. Alternative fuels and alternative energy sources are just some of the many policy issues currently under consideration by interim committees of the Legislature and by state agencies in response to our current energy challenges. (See the Sidebar at the end of this article for more information.)

In order to appease Jeff Martin's (editor-in-chief of *THE INTERIM*) penchant for fiscal as well as verbal restraint, I will confine the scope of this article to evaluating the potential of producing and using biodiesel fuel in Montana. If you would like more information on other alternative fuels and energy sources, keep track of the work of the Environmental Quality Council's Alternative Energy Subcommittee. The

subcommittee will be evaluating alternative energy policy options during the interim. To monitor the Alternative Energy Subcommittee's work go to the subcommittee website at: http://www.leg.mt.gov/css/lepo/003_2004/subcommittees/energy_group/default.asp.

WHAT IS BIODIESEL?

For those of us who use diesel in our cars, trucks, heavy equipment, school buses, and farm equipment, biodiesel may be a viable fuel supplement or replacement. So what is biodiesel? Imagine pulling up to your local McDonald's drive-through here in Montana and asking "May I have a Big Mac and fries and will you fill my diesel fuel tank with used french-fry oil, please." Although not entirely realistic, the Golden Arches scenario may not be as far-fetched as it seems. Biodiesel is an alternative fuel produced from biodegradable, nontoxic, renewable resources such as new and used vegetable oils and animal fats. Biodiesel, on its own or combined with petroleum diesel fuels, can be used in any diesel engine with little, if any, modifications.¹

HOW IS BIODIESEL MADE?

The recipe for biodiesel is fairly straightforward. Take vegetable oils or animal fats, or both, screen out any water, then add one part alcohol (we are not talking George Dickel here, but usually methanol) and a pinch of catalyst (sodium or potassium hydroxide). A chemical reaction takes place in a caldron that produces two products: fatty acid methyl esters and a chemical compound called glycerol that is used in cosmetics and pharmaceuticals. Separate the fatty acids from the glycerol, and voila. . . you have biodiesel.²

WHAT ARE THE ADVANTAGES OF USING BIODIESEL IN MONTANA?

Biodiesel is renewable. According to the U.S. Department of Energy, it requires no engine modifications--you can use it in existing diesel engines.³ It can be blended into existing petroleum diesel or used as a petroleum diesel substitute. Biodiesel is much less combustible than petroleum diesel, making it safer to handle. It reduces greenhouse gas emissions. It is approved for use as a registered fuel and fuel additive by the Environmental Protection Agency and has been designated as an alternative fuel by the Department of Energy and the U.S. Department of

¹ See the Department of Energy's Alternative Fuels Data Center Website at: www.afdc.doe.gov/altfuel/bio_benefits.html.

² For a more thorough and complete recipe for biodiesel see the Department of Energy's Website at www.afdc.doe.gov/altfuel/bio_made.html.

³ See footnote 2.

Transportation.⁴ Biodiesel has been tested in a variety of unmodified diesel vehicles for 40 million road miles, including 120,000 miles in Yellowstone National Park.⁵

Biodiesel can be produced from certain varieties of canola, safflower, mustard, camelina, and crambe, all which can be grown here in Montana. Growing the raw materials in Montana and refining and producing biodiesel in Montana maybe a value-added proposition that has the potential to create jobs, revitalize rural Montana's economy, and promote alternative fuel development.⁶

WHAT ARE THE DISADVANTAGES OF USING BIODIESEL IN MONTANA?

Biodiesel is a relatively new technology. It is uncertain whether biodiesel and biodiesel blends affect engine performance, especially fuel economy, torque, and power.⁷ Montana's cold climate may hinder the storage of biodiesel. The Department of Energy reports that although using biodiesel decreases the emission of many air pollutants, it also increases emissions of nitrogen oxides and more research and development is needed to resolve this problem.⁸ Greater use of biodiesel may have potential revenue and tax impacts on the state.

The price of biodiesel may also be a concern. Feedstock costs account for a large part of biodiesel production costs. For example, the Department of Energy says that it takes 7.3 pounds of soybean oil at a cost of 20 cents a pound to produce a gallon of biodiesel.⁹ This translates, for feedstock costs alone, into at least \$1.50 a gallon of soy biodiesel. The Department of Energy also says that fats and greases cost less and produce less expensive biodiesel (\$1 per gallon).¹⁰ If the market price of biodiesel

⁴ See the National Biodiesel Board FAQs Website at www.biodiesel.org/resources/faqs/.

⁵ For mileage numbers see footnote 4.

⁶ See the November 1, 2002, issue of Business MONTANA from the Governor's Office of Economic Development that touts the potential economic benefits of biodiesel in Montana.

⁷ See the Western Transportation Institute, College of Engineering, Montana State University's Evaluation of Biodiesel Fuel: Literature Review, July 2, 2003.

⁸ See the Department of Energy's Alternative Fuels Data Center Website at: www.afdc.doe.gov/altfuel/bio_general.html.

⁹ See the Department of Energy's Alternative Fuels Data Center Website at: www.afdc.doe.gov/altfuel/bio_market.html.

¹⁰ See footnote 9.

is greater than the market price of petroleum diesel, there may be very little incentive for Montana consumers to purchase biodiesel.

Distribution, storage, and access to biodiesel may also be a potential barrier to using this resource. Lack of uniform standards in neighboring states regarding the definition and use of biodiesel may hamper efforts to market biodiesel in Montana to interstate transport companies.

WHAT IS THE MONTANA EXPERIENCE TO DATE WITH BIODIESEL?

A number of activities have taken or are taking place in Montana regarding the use and production of biodiesel. Below is a brief summary of each activity.

- House Bill No. 502, introduced by Rep. Holly Raser of Missoula last session, would have mandated that all diesel fuel sold for use in internal combustion engines contain at least 2% biodiesel fuel by volume. The bill was discussed but tabled by the House Transportation Committee because of the unanswered questions surrounding biodiesel.
- In response to a letter from the House Transportation Committee during the 2003 Session, the Montana Department of Transportation (MDT) has initiated a research project in partnership with Montana State University that will focus on the viability of using biodiesel as an alternative fuel in MDT's vehicle fleet. The project entails the identification of biodiesel types, review of engine performance data, review of storage requirements, review of emissions and air quality impacts, assessment of potential for engine damage, review of tax issues, identification of advantages and disadvantages of biodiesel, and documentation of research findings. The project will take place over the 2003-04 legislative interim.
- The Montana Department of Environmental Quality completed a demonstration project on the use of biodiesel fuel in Yellowstone National Park in December 2002. Biodiesel was produced from rapeseed oil and potato residues. The project documented results on performance and air quality emissions. Running a conventional diesel engine on 100% biodiesel, the truck operated normally for 121,000 miles and started well in cold weather. The department also noted reduction in a number of pollutant emissions, including nitrogen oxide.
- West Yellowstone boasts the first pump in Montana to offer biodiesel. The town's Econo-Mart is offering a blend of 10% biodiesel and 90% diesel primarily for use in Yellowstone National Park.
- Peaks and Prairies Oils Seed Growers Cooperative received a grant from the U.S. Department of Agriculture in October 2002 to study the feasibility of producing oil seed crops for conversion into biodiesel. The growers' cooperative is in a partnership with Sustainable Systems, LLC, a Missoula-

based renewable energy research, development, and commercialization company that will be responsible for converting the oil seed crops into biodiesel. The growers' cooperative has been working with both Montana State University and the University of Montana on this project.

- The University of Montana has logged over 35,000 miles of biodiesel use in the "Bio-Bus". The Bio-Bus is a shuttle bus used on campus.

WHAT ARE MONTANA'S CURRENT POLICIES REGARDING BIODIESEL?

In 1995, at the request of the Environmental Quality Council, the Montana Legislature enacted an alternative fuels policy statement and implementing guidelines. The policy states that Montana encourages the use of alternative fuels and fuel blends to the extent that doing so produces environmental and economic benefits for the citizens of Montana.

Within the alternative fuels policy statement, the Legislature recommends several guidelines for the development of a state alternative fuels policy, including the following:

- (1) the use of self-sufficient markets should be encouraged;
- (2) any state alternative fuels program should have measurable benefits that are communicated to the public;
- (3) state and local governments should be encouraged to set an example with their vehicle fleets in the use of alternative fuels and fuel blends. The state also encourages production of alternative fuels and fuel blends (90-4-1011, MCA).

In addition to the alternative fuels policy statement, state law allows an income tax credit for individuals and businesses of up to a 50% income tax credit for equipment and labor costs of converting vehicles to operate on alternative fuels. The tax credit is limited to \$500 for the conversion of vehicles of 10,000 pounds or less gross vehicle weight and to \$1,000 for vehicles over 10,000 GVW. The credit must be applied in the year the conversion is made, and sellers of an alternative fuel may not receive a credit for converting their own vehicles to operate on the alternative fuel that they sell (15-30-164 and 15-31-137, MCA).

State law also allows for incentives for ethanol and biodiesel blends that will be available for 4 years after an ethanol plant is constructed and begins operating in Montana. These incentives reduce motor fuel taxes to the consumer by 15% (15-70-204, and 15-70-321, MCA, and Chapter 568, L. 2001).

WHAT IS THE FUTURE OF BIODIESEL IN MONTANA?

State agencies, the federal government, the university system, private industry, Montana's agricultural sector, and the Montana Legislature have all expressed a high level of interest in biodiesel. The potential of creating a value-added agricultural product that would help revitalize Montana's rural communities in addition to

supplementing Montana's energy needs is a tantalizing proposition. Unanswered questions remain regarding the cost and viability of using biodiesel in Montana. The Environmental Quality Council's Alternative Energy Subcommittee is interested in looking into the unanswered questions surrounding biodiesel use as well as evaluating a number of other alternative fuels. The subcommittee will conduct its investigation throughout the interim and report its findings and recommendations to the full Environmental Quality Council. If you would like to be on the Subcommittee's mailing list, please contact Todd Everts at (406) 444-3747 or teverts@mt.gov. The subcommittee will hold its first meeting on Oct. 8 in the state Capitol.

ENERGY SIDEBAR

There are a number of activities taking place this interim regarding Montana's energy issues. The bulk of the legislative energy policy work is being conducted by the Energy and Telecommunications Interim Committee. For more information on this committee, see the website address in this issue or contact Mary Vandenbosch at (406) 444-5367 or mvandenbosch@mt.gov. The Legislative Consumer Counsel is also heavily involved in a variety of energy issues. For more information regarding the Consumer Counsel, contact Bob Nelson at (406) 444-2771 or robnelson@mt.gov. Governor Martz has recently appointed a task force to evaluate options regarding Montana's energy situation. If you would like more information regarding this task force, contact John Hines at (406) 444-3952 or jhines@nwppc.org. Another valuable source of energy regulatory information is the commissioners and staff at the Public Service Commission (PSC). The PSC website address is: <http://www.psc.mt.gov/>.



INTERIM CALENDAR

UNLESS OTHERWISE SPECIFIED,
ALL ROOM DESIGNATIONS ARE IN THE CAPITOL BLDG.

SEPTEMBER

September 12, Tax Reform Study Committee (Department of Revenue), Montana Association of Counties conference room, 2715 Skyway Dr., Helena, 8:30 a.m.

September 16, Energy and Telecommunications Committee, Room 102, 8 a.m.

September 17, Public Service Commission, Natural Gas Forum, Great Northern Hotel, 835 Great Northern Boulevard, Helena, 9 a.m.

September 22, Legislative Council, SJR 32 Subcommittee on Liability Insurance for Health Care Facilities and Providers, Room 102, 9 a.m.

September 22-23, Legislative Council, see article on p. 8 for schedule and sites

September 23-24, SB 304 State Fund Study Committee (see www.sb304.com)

September 26, State Administration and Veterans' Affairs Committee

OCTOBER

October 2, Revenue and Transportation Committee, Room 137, 9 a.m.

October 3, Legislative Finance Committee, Room 102

October 8, EQC Subcommittee on Agency Oversight, Room 102, 8 a.m.

October 8, EQC Subcommittee on Alternative Energy, 8 a.m.

October 8, Environmental Quality Council, Room 102, 1 p.m.

October 9, Environmental Quality Council, Room 102, 8 p.m.

October 23, Law and Justice Committee, Room 102

October 30, Education and Local Government Committee